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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

MICHAEL A. HARTSELL,

Plaintiff,

vs.

COUNTY OF SAN DIEGO, et al.

Defendants.

CASE NO. 16cv1094-LAB (JMA)

**ORDER DENYING CHUMAN
CERTIFICATION [Dkt. 74]**

In March, the Court partially granted Defendants' motion for summary judgment, but denied San Diego County Deputy Sheriff Trenton Stroh qualified immunity. Stroh appealed. Plaintiff Michael Hartsell now asks the Court to certify that appeal as frivolous under *Chuman v. Wright*, 960 F.2d 104 (9th Cir. 1992). *Chuman* held that if the "district court find[s] that the defendants' claim of qualified immunity is frivolous or has been waived, the district court may certify, in writing, that defendants have forfeited their right to pretrial appeal, and may proceed with trial." *Id.* at 105. While the Court stands by its qualified immunity analysis, that doesn't mean the appeal is frivolous, or "so baseless that it does not invoke appellate jurisdiction." *Marks v. Clarke*, 102 F.3d 1012, 1017 n. 8 (9th Cir. 1996). The motion is **DENIED**. All case management dates, including the June 3, 2019 Pretrial Conference, are **VACATED**. The dates will be reset upon remand.

IT IS SO ORDERED.

Dated: May 7, 2019



HONORABLE LARRY ALAN BURNS
Chief United States District Judge